

# TO FILL OUT YOUR STATEMENT OF CLAIM FOR EXISTING WATER RIGHTS

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How to fill out your statement of claim



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## I. BACKGROUND

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In 1979, the Montana Legislature passed Senate Bill 76, a law authorizing a process to adjudicate claims of existing water rights. "Existing water rights" originated before July 1, 1973, and were generally established by putting water to beneficial use. As used here, a water right is:

- 1) a specific quantity of water;
- 2) taken from a single water source;
- 3) first used or appropriated on a specific date (commonly referred to as priority date).

Water judges have been appointed to review and confirm valid water right claims in Montana courts. Making complete and accurate claims to your existing water rights is the first step of the adjudication process.

**FAILURE TO CLAIM AN EXISTING WATER RIGHT AS REQUIRED BY LAW, WILL RESULT IN A CONCLUSIVE PRESUMPTION THAT YOU HAVE ABANDONED THAT WATER RIGHT.**

## II. WHO MUST CLAIM THEIR WATER RIGHTS?

*Only water rights that originated before July 1, 1973, are to be claimed under Senate Bill 76.* If your water rights originated after July 1, 1973, do not file a claim under this program. Water uses that first began after July 1, 1973, should have received either a "Permit to Appropriate Water" or a "Certificate of Water Right" from the Montana Department of Natural Resources and Conservation (DNRC). If you plan a new water development, or any change of an existing development, contact your nearest DNRC field office to make application for a permit. The field offices are listed on the last page of this booklet.

Also, water users are not required to file claims on some pre-1973 uses, but may file claims voluntarily. These exempt water uses are stockwater and domestic (household) uses of:

- 1) groundwater (wells or developed springs), and;
- 2) instream flow (direct use from a stream without using a ditch, pipe, dam, bucket, pump or other diversion method).

*All stockwater uses from surface water diversions, such as reservoirs and ditches, must be claimed.*

Water rights in the Powder River Basin for which declarations have already been filed with DNRC are exempt from filing claims.

## SPECIAL NOTE ABOUT GROUNDWATER USE

Groundwater Codes passed into law in 1961 required that all groundwater uses beginning after January 1, 1962, be recorded in the County Clerk and Recorder's office on a "Notice of Completion" form. If your groundwater use began between January 1, 1962, and July 1, 1973, and no Notice of Completion was recorded in that time period, follow these instructions:

- 1) obtain Form 602, "Notice of Completion of Groundwater Development", from the County Clerk and Recorder's office or from any DNRC field office;
- 2) complete the form and return it, along with a \$5.00 filing fee, to the DNRC field office nearest you.

If the groundwater use has a flow rate of under 100 gallons per minute, the form will be processed and a "Certificate of Water Right" will be recorded in the county courthouse and sent to the owner. The priority date assigned to the water right will be the date DNRC receives the completed Form 602. A water right claim under Senate Bill 76 can be made.

If the flow rate is over 100 gallons per minute, and the use is for a purpose other than domestic or stockwater, a water right statement of claim under Senate Bill 76 must also be completed and sent to the DNRC field office. Domestic and stockwater uses may be claimed voluntarily.

### III. MAKING YOUR WATER RIGHT CLAIM

*Claims must be made on forms available at the County Clerk and Recorder's office or any of the DNRC field offices listed on the back of this booklet. The forms are:*

**IRRIGATION FORM** - for water uses for irrigation of field crops, animal pasture, hayland, truck garden, tree farm, etc. This form should also be used to claim the irrigation of a lawn or garden over 2 acres in size and shelterbelts over 5 acres in size.

**STOCKWATER FORM** - for water uses for livestock. These include poultry, sheep, goats and hogs as well as larger livestock. Fish and wildlife uses of water should not be claimed on this form, but on the OTHER USES form.

**DOMESTIC FORM** - for water uses for individual household purposes such as cooking, washing and laundry. Domestic water uses also include the irrigation of a household lawn, garden and windbreak.

**OTHER USES FORM** - for water uses including;

Fish Raceways	Geothermal	Mining
Fish & Wildlife	Navigation	Power Generation
Commercial	Fire Protection	Recreation
Industrial	Agricultural	Oil Well
Municipal	Spraying	Flooding

Water uses other than domestic, stockwater, irrigation and those listed above, should also be claimed on this form and briefly explained.

*Each water right must be claimed on the form that describes the water's use. If a single water right has more than one use, a separate claim must be filed for each use of the water.*

Each completed water right claim should consist of:

- 1) a complete notarized claim form;
- 2) a properly labeled map;
- 3) documentation supporting your claim;
- 4) the filing fee.

As a suggestion, gather all the information you can find about your water right before filling out the claim form. This would include any documentation as well as a map. It may be helpful to complete the map before you fill out the claim form. Suggestions for properly completing a map can be found on pages 5, 7, 9 and 12 of these instructions.

*Completed claims must be filed with a field office of the Department of Natural Resources and Conservation. Claims must be filed or postmarked before MID-NIGHT, JANUARY 1, 1982.*

A water conversion table, land description guide and list of water measurement data are also on the last page of these instructions. An additional booklet, "A Guidesheet to Water Right Documentation, Water Measurement Calculations, Legal Land Descriptions for Existing Water Right Claims", is available at the field offices or any County Clerk and Recorder's office, and may be helpful. Remember, these are only guides; individual on-site measurement of flows and volumes is the most accurate method of determining water use.

### IV. CLAIM FILING FEES

*A filing fee of \$40 is required for each water right claim, with these EXCEPTIONS:*

- 1) the total fee shall not exceed \$480 per landowner per water division (water divisions shown on page 15);
- 2) no filing fee is required for claims to water rights contained in a water decree.
- 3) exempt water uses from the same source, claimed voluntarily, can be made for a single \$40 fee. These claims must be filed at the same time. Make checks payable to: Department of Natural Resources and Conservation, or DNRC.

### V. HOW TO FILL OUT YOUR CLAIM FORM

After selecting the proper claim form, follow the appropriate step-by-step instructions for completing your claim form. The claim should reflect the water right which existed on July 1, 1973, unless subsequent changes have been authorized by DNRC.

The claim form is a court document. *Each form must be filled out completely. Leave no questions unanswered.* When the claim is complete, it must be signed by at least one owner and witnessed by a licensed notary of any state. Fill in your claim with a typewriter or print in ink.



# IRRIGATION FORM INSTRUCTIONS

## 1. OWNER AND CO-OWNER

The actual owner of the water right should be printed here. If there is more than one owner, list only one name per line. If there are more than two owners, list the additional owners and their addresses on the Owner Name Addendum Sheet or on an attached sheet of paper. The owner Name Addendum Sheet is also available at the County Clerk and Recorder's office or the DNRC field office. A permanent mailing address for receiving correspondence must be supplied for each owner and co-owner.

## 2. PERSON COMPLETING FORM

Fill in your name and mailing address here.

## 3. NAME OF DITCH, CREEK OR RIVER

If you use a ditch, or pump water directly from a creek, river, slough, lake or reservoir, name it in item 3. If no name exists, print "un-named" in the space. Check the box marked "Irrigation". If your source is a well or spring, indicate this in the blank.

## 4. METHOD OF IRRIGATION USE

Mark the box that identifies the method of irrigation used. If more than one method is used, mark the appropriate boxes.

## 5. SOURCE OF WATER

Check only one source and print its name. If a water source has more than one name, enclose the additional names in parenthesis. If no name exists, print "un-named". After naming the stream from which you use water, or the stream which supplies a lake or reservoir, you are asked to name the body of water to which the stream is a tributary. In other words, name the first down-stream body of water which receives the water from your source. EXAMPLE: The Yellowstone River is a tributary of the Missouri River because the Yellowstone River flows into the Missouri River.

## 6. POINT OF DIVERSION

"Point of diversion" refers to the point where the water is taken from its natural source for your use. The "point of diversion" is the actual location of the headgate, dam, pump or other diversion means. The point of diversion for an off-stream reservoir is the point at which water is diverted from the stream to be

taken to the reservoir. Print the name of the county in which the diversion is made. Locate the point of diversion to a 10-acre area within the section. Page 12 of these instructions illustrates a section break-down that may be helpful. If the land has been subdivided, give the name of the lot, block and subdivision in addition to the section quarters, township and range. If your point of diversion is in a government lot, give the government lot number, section, township and range.

List only one point of diversion on each claim form. Describe additional points of diversion from the same water source on the Point of Diversion Addendum Sheet available from the County Clerk and Recorder, or on an attached sheet of paper. Do not list secondary diversions after the water is diverted from the source. For example, after water is diverted from a stream into a ditch, water turn-out points along the ditch need not be listed on the claim form.

## 7. MEANS OF DIVERSION

The "means of diversion" is how the water is taken from the natural source. Select the type of diversion used and mark the proper box. You may check one or more boxes. If a pump is used, indicate the pump capacity in gallons per minute.

## 8. MEANS OF CONVEYANCE

"Means of conveyance" is how the water is transported from the point of diversion to the area of use. You may check more than one box.

## 9. PLACE OF USE

The "place of use" for a water right is the location of the property where the irrigation takes place. If any changes in the place of use have occurred since July 1, 1973, and have not been recorded with DNRC, contact the nearest DNRC field office to complete a Form 606, "Application for Change of Appropriation Water Right."

On the claim form, indicate the county where the irrigated land is located. Use a separate line on the form for land irrigated in different sections. Also, use separate lines for smaller parcels located in different areas of the same section. If you need additional lines

for your legal land description, use the Place of Use Addendum Sheet available from the County Clerk and Recorder's office, or list them on a sheet of paper and attach it to the form. Be sure to indicate land irrigated in different counties. Divide the section into the appropriate quarters or halves to best describe the location of acreage in that line. Total acreage should be written on the bottom line of the claim form, including any acreage listed on attached sheets. Claim the greatest number of acres ever irrigated by the water right.

## 10. FLOW RATE CLAIMED

This is the rate at which you take water from the source for use. Water flow measurements can be expressed in three ways: gallons per minute (GPM), cubic feet per second (CFS) and Montana miners inches (MI). You may wish to claim the flow rate given on your original water appropriation or decree. However, since actual measurement was rarely made by the original appropriators, these figures are often inaccurate. Actual flow measurement is always best. The water equivalents table on the back of this booklet may be helpful. If you are claiming a reservoir, the flow rate is the maximum rate water flows into the reservoir.

## 11. VOLUME CLAIMED

"Volume" is the maximum total amount of water diverted in any year. Volume is expressed in acre-feet per year. The volume of water used will vary from area to area according to the amount of rainfall, soil type, crop requirements and efficiency of your water delivery and irrigation system; ditch loss, for example. Remember to consider these factors when claiming volume to insure sufficient water at the place of use. The last page of this booklet contains some guides that may be helpful to determine the volume of water you use.

## 12. PERIOD OF USE

"Period of use" for a water right is the period of time each year the water is used. Indicate the earliest month and day and the latest month and day the water has historically been used during any year. For example, your father has mentioned that one year he began irrigating on April 30. The latest the water was ever used was last year when you irrigated on October 15. You could then print on the claim form "April 30 to October 15."

## 13. CHECK ONE: TYPE OF RIGHT AND PRIORITY DATE OR DATE OF FIRST USE

Mark the box in front of the type of water right claimed. The types of water rights are:

**DECREED OR ADJUDICATED RIGHTS** - water rights that have been reviewed and recognized by a court proceedings. These rights are on file at the County Clerk of Court's office.

**FILED APPROPRIATION RIGHTS** - water rights recorded on a "Notice of Appropriation" filed in the County Clerk and Recorder's office. This filing may have been done by any landowner.

**USE RIGHTS** - water rights developed by use; no record of the water right was ever made in the county courthouse.

*A use right to surface water could have legally been established anytime before July 1, 1973 on unadjudicated streams. A use right to groundwater could have legally been established before January 1, 1962. If a well or spring was developed after January 1, 1962, and was not recorded in the county courthouse, please refer to the SPECIAL NOTE ABOUT GROUNDWATER USE under Section II of the booklet.*

Water rights in Montana are based on the doctrine of prior appropriation, or "first in time is first in right." *The priority date of a water right is extremely important.* The date you claim will help the courts determine your order of water-use in relation to other water-users.

For a decreed right, the priority date as found by the court should be entered in the priority date spaces. The priority date of some Notices of Appropriation is the date of "posting notice", if it appears on the filing. Most Notices of Appropriation actually support a use right with date of first use much earlier than the date the filing was made in the county courthouse. The priority date for all use rights is the earliest date of use that can be supported by the proof-of-use attachments.

## 14. ATTACH COPIES OF THE DECREE, RECORD OF FILING OR PROOF OF USE RIGHT

Documentation of the water right should be provided following these guidelines:

**DECREED RIGHT** - attach a copy of the portion of the decree describing the right. The copy can be obtained from the County Clerk of Court's office in the county of decree.

**FILED APPROPRIATION RIGHT** - attach a copy of the record of filing made in the County Clerk and Recorder's office. In most cases, filed rights are recorded under the name of the original appropriator in the county where the water is diverted. A deed or abstract may refer to the book and page number of the county record where the filing is found.

**USE RIGHT** - even though unrecorded, use water rights are valid if you can substantiate the date when the use began and the amount of water used. Proof-of-use documents may include water measurement records, a notarized statement of someone who knows when the use began (affidavits) or any similar attachment establishing a date and amount of first water use. It is advisable to attach any supporting evidence that can possibly be found.

## 15. ATTACH A CLEAR AND CONCISE MAP

*A map must be attached with each claim form you file.* Any map is acceptable as long as it is legible, accurate, and to scale. Possible maps are Water Resource Survey maps, U.S. Geological Survey

maps, Soil Conservation plan maps or aerial photographs.

The map must show and clearly label the following:

- \* point of diversion. Briefly describe the means of diversion (i.e. headgate). If you have more than one point of diversion from the main source, indicate clearly on your map these different points. Also label the means of diversion at each point.
- \* means of water conveyance (i.e. ditch, pipeline).
- \* place of storage, if any (i.e. reservoir).
- \* place of water use (area irrigated).
- \* any other item that can be labeled which would further describe or identify the method of water use.
- \* indicate clearly the sections, township and range associated with the areas on your map.
- \* print the owner's name and address.

An example of a satisfactory map attachment is illustrated on page 13 of this booklet.

## 16. NOTARIZED STATEMENT SIGNED BY CLAIMANT

To complete the claim form, it must be signed by at least one owner and witnessed by a licensed notary of any state.

# STOCKWATER FORM INSTRUCTIONS

## 1. OWNER AND CO-OWNER

The actual owner of the water right should be printed here. If there is more than one owner, list only one name per line. For more than two names, use the Owner Name Addendum Sheet or list the additional owners and their addresses on an attached sheet of paper. The Owner Name Addendum Sheet is available from the County Clerk and Recorder's office. A permanent mailing address for receiving correspondence must be supplied for each owner and co-owner.

## 2. PERSON COMPLETING FORM

Fill in your name and mailing address here.

## 3. USE

Mark the box labeled "stockwater."

## 4. SOURCE OF WATER

Check only one source and print its name. If a source has more than one name, enclose the additional names in parenthesis. If no name exists, print "un-named". After naming the stream from which you use water, or the stream which supplies a lake or reservoir, you are asked to name the body of water to which the stream is a tributary. In other words, name the first down-stream body of water which receives the water from your source. **EXAMPLE:** The Yellowstone River is a tributary of the Missouri River because the Yellowstone River flows into the Missouri River.



## 5. POINT OF DIVERSION

"Point of diversion" refers to that point where the water is taken from the source for use. If you draw water from a well or developed spring, the point of diversion is the location of the well or spring. The point of diversion for a dam, pit or reservoir is the dam or pit location itself.

In cases where the stock drink directly from a stream, lake or river, the point of diversion is the location of the entire length of the stream bank or lake shore where the stock can drink. If the stock drink directly from an irrigation ditch, the point of diversion is the location where the ditch taps the source. Print the name of the county in which the diversion is made. Locate the point of diversion to a 10-acre area within the section, if possible. Page 12 of these instructions illustrates a section break-down that may be helpful. If the land has been subdivided, give the name of the lot, block and subdivision in addition to the section, township and range. If your point of diversion is in a government lot, give the government lot number, section, township and range.

List only one point of diversion on each claim form. Describe additional points of diversion from the same water source on the Point of Diversion Addendum Sheet available from the County Clerk and Recorder's office, or on an attached sheet of paper.

## 6. MEANS OF DIVERSION

"Means of diversion" is how water is removed from the source.

- a) Pump - if a pump is used, mark the box and indicate the gallons per day pumped.
- b) Gravity Flow - gravity flow means natural flow, such as water collection at a spring box.
- c) Direct - direct diversion means that livestock drink directly from the water source.
- d) Other - any other means of diversion that may be used, such as a bucket or pail. Specify the means of diversion in the space provided.

After marking the appropriate box, indicate the maximum amount of water consumed in *gallons per day* by the maximum number of livestock that would be present at any one time during a year. Some standards for daily livestock consumption are listed on the last page of this booklet.

## 7. TOTAL NUMBER OF LIVESTOCK SERVED

Indicate the types and number of livestock in the proper spaces. Write the total number of *all* livestock served by the water right in the top line. Females and their offspring should be counted as one animal. Count weaned animals individually.

## 8. PLACE OF USE

The "place of use" is where the stock drink the water. This could be the location of the stock tank, pit, reservoir or other holding facility.

In cases where livestock drink directly from a stream, river or lake, the place of use would be identical to the point of diversion, i.e. the entire length of the stream, river or lake shore where the water is accessible to livestock. If livestock drink from ditches, the place of use would include the entire length of ditch where stock drink.

If additional spaces are needed to describe your place of use, list the additional land descriptions on the Place of Use Addendum Form available from the County Clerk and Recorder's office, or on a separate sheet of paper and attach it to the form.

## 9. FLOW RATE CLAIMED

This is the rate at which water is removed from the source for use. Water flow measurements can be expressed in three ways: gallons per minute (GPM), cubic feet per second (CFS) and Montana miners inches (MI). You may wish to claim the flow rate given on your original water appropriation or decree. However, since actual measurement was rarely made by the original appropriators, these figures are often inaccurate. Actual flow measurement is always best. The water equivalents table on the back of this booklet may be helpful. A flow rate of 10 to 30 gallons per minute will satisfy most stock needs. If you are claiming a reservoir, the flow rate is the maximum rate water flows into the reservoir.

## 10. VOLUME CLAIMED

"Volume" is the total amount of water, in acre-feet, diverted each year to satisfy stock needs. The last page of this booklet contains some recommendations that may be helpful when determining volume for stock needs.

## 11. PERIOD OF USE

This is the period of time each year the water is used. Indicate the earliest month and day and the latest month and day the water has historically been used by livestock during any year. For example, if the water is needed during the entire year, print "January 1 to December 31" in the spaces.

## 12. CHECK ONE: TYPE OF RIGHT AND PRIORITY DATE OR DATE OF FIRST USE

Mark the box in front of the type of water right claimed. The types of water rights are:

**DECREED OR ADJUDICATED RIGHTS** - water rights that have been reviewed and recognized by a court proceedings. These rights are on file at the County Clerk of Court's office.

**FILED APPROPRIATION RIGHTS** - water rights recorded on a "Notice of Appropriation" filed in the County Clerk and Recorder's office. This filing may have been done by any landowner.

**USE RIGHTS** - water rights developed by use; no record of the water right was ever made in the county courthouse.

*A use right to surface water could have legally been established anytime before July 1, 1973 on un-adjudicated streams. A use right to ground-water could have legally been established before January 1, 1962. If a well or spring was developed after January 1, 1962, and was not recorded in the county courthouse, please refer to the SPECIAL NOTE ABOUT GROUNDWATER USE under Section II of this booklet.*

Water rights in Montana are based on the doctrine of prior appropriation, or "first in time is first in right." *The priority date of a water right is extremely important.* The date you claim will help the courts determine your order of water-use in relation to other water-users.

For a decreed right, the priority date as found by the court should be entered in the priority date spaces. The priority date of some Notices of Appropriation is the date of "posting notice", if it appears on the filing. Most Notices of Appropriation actually support a use right with a date of first use much earlier than the date the filing was made in the county courthouse. The priority date for all use rights is the earliest date of use that can be supported by the proof-of-use attachments.

## 13. ATTACH COPIES OF THE DECREE, RECORD OF FILING OR PROOF OF USE RIGHT

Documentation of the water right should be provided following these guidelines:

**DECREED RIGHT** - attach a copy of the portion of the decree describing the right. The copy can be obtained from the County Clerk of Court's office in the county of decree.

**FILED APPROPRIATION RIGHT** - attach a copy of the record of filing made in the County Clerk and Recorder's office. In most cases, filed rights are recorded under the name of the original appropriator in the county where the water is diverted. A deed or abstract may refer to the book and page number of the county record where the filing is found.

**USE RIGHT** - even though unrecorded, use water rights are valid if you can substantiate the date when the use began and the amount of water used. Proof-of-use documents may include water measurement records, a notarized statement of someone who knows when the use began (affidavits) or any similar attachment establishing a date and amount of first water use. It is advisable to attach any supporting evidence that can possibly be found.

## 14. ATTACH A CLEAR AND CONCISE MAP

*A map must be attached with each claim form you file.* Any map is acceptable as long as it is legible, accurate, and to scale. Possible maps are Water Resource Survey maps, U.S. Geological Survey maps, Soil Conservatoin plan maps or aerial photographs.

The map must show and clearly label the following:

- \* point of diversion. Briefly describes the means of diversion (i.e. pump). This should include the entire area where stock can drink, if stock drink directly from the source.
- \* means of water conveyance (i.e. ditch, pipeline).
- \* place of storage, if any (i.e. reservoir).
- \* place of water use (where stock drink).
- \* any other items that can be labeled which would further describe or identify the water right.



- indicate clearly the sections, township and range associated with the areas on your map.
- print the owner's name and address.

An example of a well-labeled map attachment is illustrated on page 13 of this booklet.

# DOMESTIC FORM INSTRUCTIONS

## 1. OWNER AND CO-OWNER

The actual owner of the water right should be printed here. If there is more than one owner, list only one name per line. For more than two names, use the Owner Name Addendum Sheet available from the County Clerk and Recorder's office, or list the additional owners and their addresses on an attached sheet of paper. A permanent mailing address for receiving correspondence must be supplied for each owner and co-owner.

## 2. PERSON COMPLETING FORM

Fill in your name and mailing address here.

## 3. USE

Mark the box labeled "domestic."

## 4. SOURCE OF WATER

Check only one source and print its name. If a source has more than one name, enclose the additional names in parenthesis. If no name exists, print "unnamed". After naming the stream from which you use water, or the stream which supplies a lake or reservoir, you are asked to name the body of water to which the stream is a tributary. In other words, name the first down-stream body of water which receives the water from your source. EXAMPLE: The Yellowstone River is a tributary of the Missouri River because the Yellowstone River flows into the Missouri River.

## 5. POINT OF DIVERSION

"Point of diversion" refers to that point where the water is taken from its natural source for your use. The point of diversion is the actual location of the pipe, dam, pump or any diversion-means used to withdraw the water. Print the name of the county in which the diversion is made. Locate the point of diversion to a 10-acre area within the section. The last page of these instructions illustrates a section break-down that may be helpful. If the land has been subdivided, give the

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To complete the claim form, it must be signed by at least one owner and witnessed by a licensed notary of any state.

name of the lot, block and subdivision in addition to the section quarters, township and range. If your point of diversion is in a government lot, give the government lot number, section, township and range.

## 6. MEANS OF DIVERSION

The "means of diversion" is how the water is taken from the natural source. Select the type of diversion used and mark the proper box. You may check one or more boxes. If a pump is used, indicate the pump capacity in gallons per minute.

## 7. PLACE OF USE AND ACRES IRRIGATED

The "place of use" for domestic water claims is generally the location of the home, lawn and garden. Indicate the approximate acreage of lawn and garden. If you don't water a lawn or garden, print "0" acres and describe the location of the house. If you live in a subdivision and have your own individual water supply, complete the blanks describing lot, block and subdivision.

## 8. NUMBER OF PERSONS SERVED

Claim the maximum number of persons ever to live in the house on a regular basis.

## 9. FLOW RATE CLAIMED

This is the rate at which you take water from the source for use. Water flow measurements can be expressed in three ways: gallons per minute (GPM), cubic feet per second (CFS) and Montana miners inches (MI). Actual flow measurement is always best. However, most domestic wells discharge between 5 and 30 gallons per minute. The water equivalents table on the back of this booklet may be helpful. If you are claiming a reservoir, the flow rate is the maximum rate water flows into the reservoir.



## 10. VOLUME CLAIMED

The "volume claimed" is the total amount of water, in acre-feet, consumed in a year. A common standard of use for domestic purposes is listed on the last page. Any recommended standard of use should be adjusted depending on your individual situation.

## 11. PERIOD OF USE

This is the period of time each year the water is used. Indicate the earliest month and day and the latest month and day the water has historically been used during any year. For example, if the water is needed during the entire year, print "January 1 to December 31."

## 12. CHECK ONE: TYPE OF RIGHT AND PRIORITY DATE OR DATE OF FIRST USE

Mark the box in front of the type of water right claimed. The types of water rights are:

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**USE RIGHT** - even though unrecorded, use water rights are valid if you can substantiate the date when the use began and the amount of water used. Proof-of-use documents may include water measurement records, affidavits or any similar attachment establishing a date and amount of first water use. It is advisable to attach any supporting evidence that can possibly be found.

## 14. ATTACH A CLEAR AND CONCISE MAP.

A map must be attached with each claim form you file. Any map is acceptable as long as it is legible, accurate and to scale. Possible maps are U.S. Geological Survey maps, subdivision plat maps or aerial photographs.

The map must show clearly and label the following:

- \* point of diversion. Briefly describe the means of diversion, such as "pump."
- \* any means of water conveyance (i.e. "pipeline").

- place of storage (if any).
- place of water use (house, lawn and garden).
- any other items that can be labeled which would further describe or identify the water right.
- indicate clearly the sections, township and range associated with the areas on your map.
- print the owner's name and address.

An example of a well-labeled map attachment is illustrated on page 13 of this booklet.

## 15. NOTARIZED STATEMENT SIGNED BY CLAIMANT

To complete the claim form, it must be signed by at least one owner and witnessed by a licensed notary of any state.

# OTHER USES FORM INSTRUCTIONS

## 1. OWNER AND CO-OWNER

The actual owner of the water right should be printed here. If there is more than one owner, list only one name per line. For more than two names, use the Owner Name Addendum Sheet which is available from the County Clerk and Recorder's office, or list the additional owners and their addresses on an attached sheet of paper. A permanent mailing address for receiving correspondence must be supplied for each owner and co-owner.

## 2. PERSON COMPLETING FORM

Fill in your name and mailing address here.

## 3. USE

*Only one use can be claimed on each form.* Mark the box which describes your particular use of the water right. If none of the categories on the form reflect your use, check the box "other" and briefly describe the use in the space.

## 4. SOURCE OF WATER

Check only one source and print its name. If a source has more than one name, enclose the additional names in parenthesis. If no name exists, print "un-named". After naming the stream from which you use water, or the stream which supplies a lake or reservoir, you are asked to name the body of water to which the stream is a tributary. In other words, name the first down-stream body of water which receives the water from your source. EXAMPLE: The Yellowstone River is a tributary of the Missouri River because the Yellowstone River flows into the Missouri River.

## 5. POINT OF DIVERSION

"Point of diversion" refers to the point where the water is taken from its natural source for your use. "Point of diversion" means the actual location of water withdrawal of the headgate, dike, pipe, dam or pump. The point of diversion for offstream reservoirs is the point water is diverted from the stream to be taken to the reservoir. Print the name of the county in which the diversion is made. Locate the point of diversion to a 10-acre area within the section. The last page of these instructions illustrates a section break-down that may be helpful. If the land has been subdivided, give the name of the lot, block and subdivision in addition to the section, township and range. If your point of diversion is in a government lot, write in government lot number, section, township and range. 1 range.

List only one point of diversion on each claim form. Describe additional points of diversion from the same water source on the Point of Diversion Addendum Sheet available from the County Clerk and Recorder's office, or on an attached sheet of paper.

## 6. MEANS OF DIVERSION

The "means of diversion" is how the water is taken from the natural source. Select the type of diversion used and mark the proper box. You may check one or more boxes. If a pump is used, indicate the pump capacity in gallons per minute.

## 7. MEANS OF CONVEYANCE

"Means of conveyance" is how water is transported from the point of diversion to the area of use. You may check more than one box.



## 8. PLACE OF USE

First indicate the county where the water is actually put to use. Mark the box that describes the use:

- a) Instream (no diversion involved)
- b) City or Town (municipal water system, etc.)
- c) Other (any other place of use, briefly describe)

Print the name of the county where the water is used. Locate this area to the appropriate quarter section and indicate the section, township and range on the form. If additional space is needed list these descriptions on the Place of Use Addendum Sheet available from the County Clerk and Recorder's office, or on an attached sheet of paper.

## 9. FLOW RATE CLAIMED

This is the rate at which you take water from the source for use. Water flow measurements can be expressed in three ways: gallons per minute (GPM), cubic feet per second (CFS) and Montana miners inches (MI). You may wish to claim the flow rate given on your original water appropriation or decree. However, since actual measurement was rarely made by the original appropriators, these figures are often inaccurate. Actual flow measurement is always best. The water equivalents table on the back of this booklet may be helpful. If you are claiming a reservoir, the flow rate is the maximum rate recharge water flows into the reservoir.

## 10. VOLUME CLAIMED

"Volume" is the total amount of water needed each year to satisfy the use. Volume is expressed in acre-feet. The last page of this booklet contains a water equivalents table that may be helpful.

## 11. PERIOD OF USE

"Period of use" for a water right is the period of time each year the water is used. Indicate the earliest month and day and latest month and day the water has historically been used in any year.

## 12. CHECK ONE: TYPE OF RIGHT AND PRIORITY DATE OR DATE OF FIRST USE

Mark the box in front of the type of water right claimed. The types of water rights are:

**DECREED OR ADJUDICATED RIGHTS** - water rights that have been reviewed and recognized by a court proceedings. These rights are on file at the County Clerk of Court's office.

**FILED APPROPRIATION RIGHTS** - water rights recorded on a "Notice of Appropriation" filed in the County Clerk and Recorder's office. This filing may have been done by any previous landowners.

**USE RIGHTS** - water rights developed by use; no record of the water right was ever made in the county courthouse.

*A use right to surface water could have legally been established anytime before July 1, 1973 on unadjudicated streams. A use right to groundwater could have legally been established before January 1, 1962. If a well or spring was developed after January 1, 1962, and was not recorded in the county courthouse, please refer to the SPECIAL NOTE ABOUT GROUNDWATER USE under Section II of this booklet.*

Water rights in Montana are based on the doctrine of prior appropriation, or "first in time is first in right." *The priority date of a water right is extremely important.* The date you claim will help the courts determine your order of water-use in relation to other water-users.

For a decreed right, the priority date as found by the court should be entered in the priority date spaces. The priority date of some Notices of Appropriation is the date of "posting notice", if it appears on the filing. Most Notices of Appropriation actually support a use right with a date of first use much earlier than the date the filing was made in the county courthouse. The priority date for all use rights is the earliest date of use that can be supported by the proof-of-use attachments.

## 13. ATTACH COPIES OF THE DECREE, RECORD OF FILING OR PROOF OF USE RIGHT

Documentation of the water right should be provided following these guidelines:

**DECREED RIGHT** - attach a copy of the portion of the decree describing the right. The copy can be obtained from the County Clerk of Court's office in the county of decree.

**FILED APPROPRIATION RIGHT** - attach a copy of the record of filing made in the County Clerk and Recorder's office. In most cases, filed rights are recorded under the name of the original appropriator in the county where the water is diverted. A deed or abstract may refer to the book and page number of the county record where the filing is found.

**USE RIGHT** - even though unrecorded, use water rights are valid if you can substantiate the date when the use began and the amount of water used. Proof-of-use documents may include water measurement records, affidavits or any similar attachment establishing a date and amount of first water use. It is advisable to attach any supporting evidence that can possibly be found.

## 14. ATTACH A CLEAR AND CONCISE MAP

A map must be attached with each claim form you file. Any map is acceptable as long as it is legible, accurate, and to scale. Possible maps are Water Resource Survey maps, U.S. Geological Survey maps, subdivision plat maps or aerial photographs.

The map must show and clearly label the following:

- point of diversion. Briefly describe the means of diversion (i.e. pump). If you have more than one point of diversion from the main source, indicate clearly on your map these different points. Also label the means of diversion at each point.

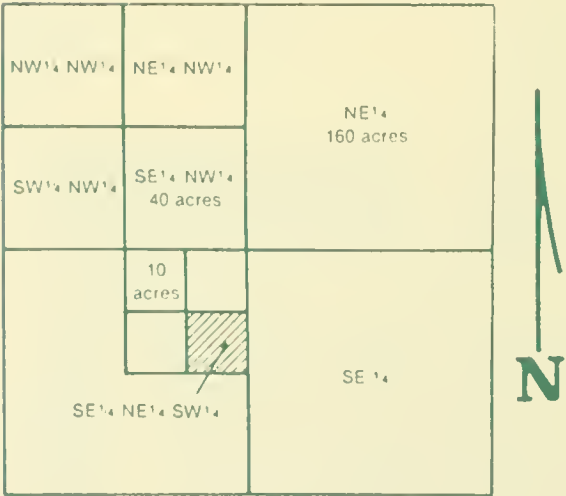
- means of water conveyance (i.e. ditch, pipeline).
- place of storage, if any (i.e. reservoir).
- place of water use.
- any other items that can be labeled which would further describe or identify the method of water use.
- indicate clearly the sections, township, and range associated with the areas on your map.
- print the owner's name and address.

An example of a satisfactory map attachment is illustrated on the last page of this booklet.

## 15. NOTARIZED STATEMENT SIGNED BY CLAIMANT

To complete the claim form, it must be signed by at least one owner and witnessed by a licensed notary of any state.

# LEGAL LAND DESCRIPTION



EXAMPLE: Section 1, Township 3 North, Range 6 West

Standard Section	= 36 acres
1/4 section	= 9 acres
1/4 of 1/4 section	= 2.25 acres
1/4 of 1/4 of 1/4 section	= .5625 acres

To describe any point in a section, the section is first divided into quarters of 9 acres. A quarter is described as being either the northeast (NE), northwest (NW), southeast (SE), or southwest (SW) quarter of the section. For a more precise location, the quarters can be divided in a like manner to 2.25-acre quarters. To further describe a location, the 2.25-acre quarters can be similarly divided to .5625-acre quarters.

The legal description of a parcel of land, when written, always begins with the *smallest* division and then proceeds to the *largest* division. For example, the smallest parcel shown in the illustration of Section 1 in Township 3N, Range 6W, would be legally described as:

"The SE 1/4 NE 1/4 SW 1/4, Section 1, Township 3N, Range 6W".

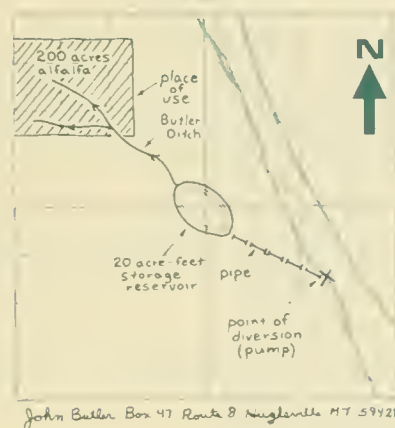
If you want to describe a location that covers a large area, such as a stream or lake, the section may be divided in half and described as either N 1/2, S 1/2, W 1/2, or E 1/2 of the section. A larger location may simply be described by the section number.



# ATTACH A CLEAR AND CONCISE MAP

REMEMBER to show:

- \*Point and means of diversion
- \*Any place of storage
- \*Place of use
- \*Conveyance facilities



## WATER MEASUREMENT

### FLOW RATE

Flow rate can be expressed in cubic feet per second (CFS), gallons per minute (GPM) and miners inches (MI).

$$1 \text{ CFS} = 450 \text{ GPM}$$

$$1 \text{ CFS} = 40 \text{ MI}$$

$$1 \text{ CFS} = 646,272 \text{ gallons per day.}$$

### IRRIGATION

Determination of flow rate for irrigation systems should be made *at the point of diversion from the water source*. Many irrigation wells were recorded at the county court house upon completion, and may give you clues to the yield measured by the driller or original owner. Filed appropriations, also recorded at the county courthouse, may give you some idea as to the amount of flow of the original appropriation. Pump or equipment specifications may list a discharge rate. Assistance with selection and use of measuring equipment can be obtained from private agricultural consulting firms or equipment manufacturing representatives.

### STOCKWATER

For stockwater requirements, most small wells discharge between 5 and 30 gallons per minute, which is usually sufficient for most stock needs.

Discharge of springs may have to be measured or estimated to claim sufficient flow for stock use. A flow rate for livestock drinking direct from the creek,

spring or ditch may be difficult to measure, but most rates will range from 10 to 30 gallons per minute. For ponds or reservoirs, flow rate is expressed as the maximum rate water flows into the pond or reservoir. If the volume or capacity of the reservoir is known, as well as the approximate days required to fill the reservoir, an approximate flow rate can be found as follows:

$$\text{Reservoir capacity (acre-feet)} \div \text{days to fill} \times .5 = \text{flow rate in CFS}$$

### DOMESTIC

A domestic well will typically discharge between 5 and 30 gallons per minute.

### VOLUME

#### IRRIGATION

The following formulas will help determine a yearly volume if you first determine the *actual flow rate* and the *number of 24 hour-periods (days) water is actually diverted and used*.

For a flow rate expressed in cubic feet per second (CFS):

$$\text{CFS} \times \text{days} \times 2 = \text{acre-feet.}$$

For a flow rate expressed in gallons per minute (GPM):

$$\text{GPM} \times \text{days} \div 225 = \text{acre-feet.}$$

For a flow rate expressed in miners inches (MI):

$$\text{MI} \times \text{days} \div 20 = \text{acre-feet.}$$

## STOCKWATER

For range cattle and horses, the annual water requirement from wells, springs, streams and ditches can be determined from these formulas:

### WELLS or SPRINGS

Number of head  $\times$  months served  $\times$  .0014 = acre-feet.

### STREAMS and DITCHES

Number of head  $\times$  months served  $\times$  .0028 = acre-feet.

Either formula may be used for milk cows, hogs, or sheep with one additional step:

Milk Cows - multiply by 2

Hogs - divide by 3

Sheep - divide by 5

## PONDS AND RESERVOIRS

The volume of ponds, lakes or reservoirs (generally less than 50 acre feet capacity) can be calculated using this formula:

ACRE-FEET = Surface Area (acres)  $\times$  Maximum Depth (feet)  $\times$  0.4

Multiply the formula by the number of times the reservoir is completely used and refills in a year of maximum use.

## AVERAGE LIVESTOCK WATER REQUIREMENTS

Some average water requirements for use throughout the year are listed below. Actual daily requirements depend on air temperature, type of feed, activity, etc.

15 gallons per day each horse, dry cow, steer

30 gallons per day each milk cow

5 gallons per day each hog

3 gallons per day each sheep

## DOMESTIC VOLUME REQUIREMENTS

The yearly volume of water you use for domestic purposes can best be estimated by using the following standard:

Family of Five	1.0 Acre-Foot/Year
¼ Acre Lawn and Garden	.5 Acre-Foot/Year
Total Volume Used	1.5 Acre-Foot/Year

## WATER EQUIVALENTS TABLE

1 cubic foot.....	7.48 gallons.....	62.4 lbs. of water
1 acre-foot.....	43,560 cubic feet.....	325,900 gallons
An acre-foot covers one acre of land one foot deep.		
1 cubic foot per second (cfs)....	448.8 gallons per minute	
1 cfs.....	40 Montana statutory miner's inches	
1 cfs.....	646,272 gallons per day	
For 24 hours.....	1.983 acre-feet	
For 30 days.....	59.5 acre-feet	
For 1 year.....	724 acre-feet	
1 million gallons.....	3.07 acre-feet	
1 million gallons per day (mgd)...	1,122 acre-feet per year	
1,000 gallons per minute (gpm).....	2.23 cfs	
1,000 gpm.....	4.42 acre-feet per day	
An acre-foot supplies a family of 5 for 1 year.		



# DNRC WATER RIGHTS FIELD OFFICES AND COUNTIES SERVED

## **BILLINGS**

1537 Avenue D  
Suite 121  
Billings, MT 59102  
(Phone 248-6540)

Big Horn	Treasure
Carbon	Yellowstone
Stillwater	Sweet Grass

## **HELENA**

28 South Rodney  
Helena, MT 59620  
(Phone 449-3634)

Deer Lodge	Beaverhead
Powell	Silver Bow
Broadwater	Lewis & Clark
	Jefferson

## **MISSOULA**

2101 Bow Street  
P.O. Box 5004  
Missoula, MT 59806  
(Phone 721-4284)

Missoula  
Granite  
Ravalli  
Mineral

## **KALISPELL**

3220 Highway 93 South  
P.O. Box 860  
Kalispell, MT 59901  
(Phone 755-9288)

Flathead  
Lake  
Lincoln  
Sanders

## **HAVRE**

Old Highway 2  
P.O. Box 1828  
Havre, MT 59501  
(Phone 265-5516)

Blaine	Liberty
Chouteau	Pondera
Glacier	Teton
Hill	Toole

## **MILES CITY**

5 North Prairie  
P.O. Box 276  
Miles City, MT 59301  
(Phone 232-6359)

Carter	Powder River
Custer	Prairie
Fallon	Rosebud
	Wibaux

## **LEWISTOWN**

613 Northeast Main St.  
P.O. Box 438  
Lewistown, MT 59457  
(Phone 538-7459)

Cascade	Meagher
Fergus	Musselshell
Golden Valley	Petroleum
Judith Basin	Wheatland

## **GLASGOW**

110 Fifth Street So.  
Room 106  
P.O. Box 894  
Glasgow, MT 59230  
(Phone 228-2561)

Daniels	Phillips
Dawson	Richland
Garfield	Roosevelt
McCone	Sheridan
	Valley

## **BOZEMAN**

Professional Building  
Suite 1-D  
Corner Black & Olive  
Bozeman, MT 59715  
(Phone 586-3136)

Gallatin  
Park  
Madison

## WATER DIVISIONS

Hon. W. W. Lessley, Chief Water Judge  
Upper Missouri River Basin Division

Hon. Bernard W. Thomas, Water Judge  
Lower Missouri River Basin Division

Hon. Robert M. Holter, Water Judge  
Clark Fork River Basin Division

Hon. Jack D. Shanstrom, Water Judge  
Yellowstone River Basin Division



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**DNRC**